

OBJECTS AND REASONS

This Bill would amend the *Customs Act*, Cap. 66 to make provision for the obtaining of passenger and cargo information in advance of the arrival in Barbados of ships and aircraft and on the departure of such ship and aircraft from Barbados.

*Arrangement of Sections**Section*

1. Short title.
2. Amendment of section 2 of Cap. 66.
3. Amendment of section 34 of Cap. 66.
4. Insertion of sections 34A, 34B, 34C, 34D and 34E in Cap. 66.
5. Amendment of section 35 of Cap. 66.
6. Amendment of section 51 of Cap. 66.
7. Amendment of section 78 of Cap. 66.
8. Insertion of section 78A in Cap. 66.
9. Amendment of section 79 of Cap. 66.
10. Amendment of section 81 of Cap. 66.
11. Amendment of section 82 of Cap. 66.
12. Amendment of section 83 of Cap. 66.
13. Amendment of section 84 of Cap. 66.

Section

14. Amendment of section 207 of Cap. 66.
15. Amendment of section 210 of Cap. 66.
16. Insertion of section 239A in Cap. 66.
17. Amendment of Cap. 66.

SCHEDULE

BARBADOS

A Bill entitled

An Act to amend the *Customs Act*.

ENACTED by the Parliament of Barbados as follows:

1. This Act may be cited as the *Customs (Amendment) Act*, Short title. 2007.

Amend-
ment of
section 2 of
Cap. 66.

2. The *Customs Act*, in this Act referred to as the principal Act, is amended

(a) by deleting the definition of "document" and substituting the following:

"document" includes

- (a) anything on which there is writing;
- (b) a map, plan, drawing or photograph;
- (c) any written information relating directly or indirectly to goods which are imported, exported or are in transit;
- (d) any written declaration required by the Comptroller; and
- (e) any information recorded or stored by means of any tape recorder, computer or other device, and any material subsequently derived from the information so recorded or stored,

and also includes a part of a document as so defined and a copy, reproduction or duplicate of a document or part thereof."; and

(b) by inserting in the appropriate alphabetical order, the following:

Second "domestic space" means the countries listed in the *Second*
Schedule. *Schedule*;"

3. The principal Act is amended by deleting section 34 and the title appearing immediately before that section and substituting the following: Amend-
ment of
section 34
of Cap. 66.

"REPORT PRIOR TO ARRIVAL

Duty of
master of
ship or
commander
of aircraft.

34. (1) This section shall apply to a ship or aircraft that is expected to arrive in Barbados.

(2) The master of every ship and the commander of every aircraft or the agent of the master or commander of the ship or aircraft as the case may be, whether the ship or aircraft is laden or not, shall, at such time as is provided in subsection (4) make a report to the proper officer at the intended port of arrival in Barbados in an electronic format approved by the Comptroller or in the form approved by the Comptroller.

(3) The report referred to in subsection (2) shall consist of data in respect of

(a) the ship or aircraft mentioned in that subsection and each passenger on board including every member of the crew on board the ship or aircraft, in accordance with Part I of the *First Schedule*; and

(b) the cargo on board the ship or aircraft in accordance with Part II of the *First Schedule*.

(4) Where a ship or aircraft is expected to arrive in Barbados, the data referred to in subsection (3) shall be provided in the case of

(a) a commercial aircraft, no later than 15 minutes after departure from the last port of call;

First
Schedule.

(b) a private aircraft, no later than 30 minutes prior to the departure from the last port of call;

(c) a ship arriving from outside the domestic space, no later than 24 hours prior to arrival; and

(d) a ship arriving from a destination within the domestic space, no later than 1 hour prior to arrival.

(5) Every report made under by subsection (2) shall show separately any goods which are

(a) in-transit; or

(b) to be transferred to another ship or aircraft for re-exportation

and shall state whether there are any goods which are to remain on board for exportation in the same ship or aircraft; and the report shall, give an account of all goods remaining on board for exportation.

(6) The master of any ship or the commander of any aircraft to which subsection (2) applies or the agent of such master or commander may, where specially allowed by the Comptroller, make the report as required by this section after arrival in Barbados and after bulk is broken."

Insertion of sections 34A, 34B, 34C, 34D and 34E into Cap. 66.

4. The principal Act is amended by inserting immediately after section 34 the following sections:

"Waiver.

34A. (1) The Minister may by order

(a) waive or modify any of the requirements of subsection (2) or (3) of section 34;

First
Schedule.

- (b) modify any of the data referred to in the *First Schedule*; or
 - (c) waive any of the requirements of subsection (4) of section 34 with regard to the time required for the submission of data.
- (2) An order made under subsection (1) is subject to negative resolution.

Penalty.

34B. Where the master of a ship or the commander of an aircraft or the agent of the master or commander intentionally or recklessly

- (a) fails to make the due report as required by subsection (2) of section 34; or
- (b) transmits incomplete or false data,

the master, commander or agent is liable to pay to the Comptroller a penalty of \$200 000.

Seizure
and
deten-
tion.

34C. (1) Where a master of a ship or a commander of an aircraft or the agent of the master or commander fails to comply with the provisions of subsection (2) of section 34, the Comptroller may seize and detain the ship or aircraft to which the non-compliance relates.

(2) Notwithstanding subsection (1), in the case of a commercial ship or aircraft, the ship or aircraft shall be released on the lodgement of a bond in the sum of \$1 000 000 or 3 times the value of the ship or aircraft whichever is greater.

(3) Where pursuant to subsection (1) a ship or aircraft is seized or detained by the Comptroller, the Harbour Master or the Director of Civil Aviation shall not grant clearance to the ship or aircraft to depart until so authorised by the Comptroller.

Release of
bond.

34D. The Comptroller shall release the bond lodged under subsection (2) of section 34C

- (a) upon receipt of the data referred to in subsection (2) of section 34 and on payment of the penalty imposed under section 34B; or
- (b) in accordance with an order of the High Court.

Denial of
clearance.

34E. Where the ship or aircraft referred to in subsection (2) of section 34 is not a commercial ship or aircraft, the proper officer may refuse to grant clearance to the ship or aircraft to leave port until

- (a) the penalty imposed under section 34B has been paid; and
- (b) the report referred to in subsection (2) of section 34 has been received."

Amend-
ment of
section 35
of Cap. 66.

5. Section 35 of the principal Act is deleted and the following is substituted:

"Questions
to be
answered.

35. (1) The master of a ship, the commander of an aircraft to which section 34 applies, or the agent of the master or commander shall

- (a) answer immediately all questions relating to
 - (i) the ship or aircraft;
 - (ii) the goods and passengers conveyed in the ship or aircraft; or
 - (iii) the crew and voyage or flight

that are put to the master, commander or agent by the proper officer; and

- (b) produce all such books and documents in his custody or control relating to the ship or aircraft as the proper officer may require.

(2) Where the master, commander or agent fails to comply with the provisions of subsection (1), the Comptroller may

- (a) exercise the powers of seizure and detention as provided in subsection (1) of section 34C;
- (b) impose a bond in the same manner as is specified in subsection (2) of section 34C; and
- (c) impose the penalty specified in section 34B."

6. Subsection (1) of section 51 of the principal Act is amended by deleting paragraph (a) and renumbering paragraphs (b) and (c) as paragraphs (a) and (b) respectively.

Amend-
ment of
section 51
of Cap. 66.

7. The principal Act is amended by deleting section 78 and the title appearing immediately before that section and substituting the following:

Amend-
ment of
section 78
of Cap. 66.

"CLEARANCE OUTWARDS

Master to
deliver
content.

78. (1) This section shall apply to a ship or aircraft that has left or is expected to leave Barbados.

(2) The master of every ship and the commander of every aircraft or the agent of the master or commander of the ship or aircraft as the case may be, whether the ship or aircraft is laden or not, shall, at such time as is provided in subsection (4), deliver a content to the proper officer at the intended port of departure in Barbados, in an electronic format approved by the Comptroller or in the form approved by the Comptroller.

(3) The content referred to in subsection (2) shall consist of data in respect of

- (a) the ship or aircraft mentioned in that subsection and each passenger on board including every member

First
Schedule.

of the crew on board the ship or aircraft, in accordance with Part I of the *First Schedule*; and

(b) the cargo on board the ship or aircraft in accordance with Part II of the *First Schedule*.

(4) Where a ship or aircraft has left or is expected to leave Barbados, the data referred to in subsection (3) shall be provided no later than 15 minutes after departure from Barbados.

(5) The Comptroller may generally or in any particular case require the master or commander or the agent of either of them to furnish a list of the crew and each passenger on board to the proper officer at least one hour before the scheduled time of departure."

Insertion of
section 78A
in Cap. 66.

8. The principal Act is amended by inserting immediately after section 78 the following new section:

"Waiver.

78A. (1) The Minister may by order

(a) waive or modify any of the requirements of subsection (2) or (3) of section 78;

First
Schedule.

(b) modify any of the data referred to in the *First Schedule*; or

(c) waive the requirement of subsection (4) of section 78 with regard to the time required for the submission of data.

(2) An order made under subsection (1) is subject to negative resolution."

9. The principal Act is amended by deleting section 79 and substituting the following: Amendment of section 79 of Cap. 99.

"Penalty for contravention of section 78.

79. Where the master of ship or the commander of an aircraft or the agent of the master or commander intentionally or recklessly

(a) fails to make the due content as required by subsection (2) of 78; or

(b) transmits incomplete or false data,

the master, commander or agent is liable to pay to the Comptroller a penalty of \$200 000."

10. The principal Act is amended by deleting section 81 and substituting the following: Amendment of section 81 of Cap. 66.

"Seizure and detention.

81. (1) Where a master of a ship or a commander of an aircraft or the agent of the master or commander fails to comply with the provisions of subsection (2) of section 78, the Comptroller may seize and detain the ship or aircraft to which the non-compliance relates.

(2) Notwithstanding subsection (1), in the case of a commercial ship or aircraft, the ship or aircraft shall be released on the lodgement of a bond in the sum of \$1 000 000 or 3 times the value of the ship or aircraft whichever is greater.

(3) Where pursuant to subsection (1) a ship or aircraft is seized or detained by the Comptroller, the Harbour Master or the Director of Civil Aviation shall not grant clearance to the ship or aircraft to depart until so authorised by the Comptroller."

11. Section 82 of the principal Act is amended by deleting the words "a penalty of five hundred dollars" and substituting the words "pay to the Comptroller a penalty of \$200 000." Amendment of section 82 of Cap. 66

Amend-
ment of
section 83
of Cap. 66.

12. Section 83 of the principal Act is amended in subsection (1) by deleting the words "except that the words "in ballast" shall be written on the prescribed forms in the places which are provided for particulars of cargo" and substituting the words "except that the word "nil" shall be written on the prescribed form or zero inserted in the appropriate electronic data element."

Amend-
ment of
section 84
of Cap. 66.

13. The principal Act is amended by deleting section 84 and substituting the following:

"Questions
to be
answered.

84. (1) The master of a ship, the commander of an aircraft to which section 78 applies, or the agent of the master or commander shall

(a) answer immediately all questions relating to

- (i) the ship or aircraft;
- (ii) the goods and passengers conveyed in the ship or aircraft; or
- (iii) the crew and voyage or flight

that are put to the master, commander or agent by the proper officer on board the ship or aircraft; and

(b) produce all such books and documents in his custody or control relating to the ship or aircraft as the proper officer may require.

(2) Where the master, commander or agent fails to comply with the provisions of subsection (1), the Comptroller may

- (a) exercise the powers of seizure and detention as provided in subsection (1) of section 81;
- (b) impose a bond in the same manner as is specified in subsection (2) of section 81; and
- (c) impose the penalty as specified in section 79."

14. Section 207 of the principal Act is amended in subsections (4) and (5) by inserting the word "Third" immediately before the word "Schedule" appearing therein.

Amendment of section 207 of Cap. 66.

15. Section 210 of the principal Act is amended in subsections (1) and (2) by inserting the word "Third" immediately before the word "Schedule" appearing therein.

Amendment of section 210 of Cap. 66.

16. The principal Act is amended by inserting immediately after section 239 the following new section:

Insertion of section 239A in Cap. 66.

"Power of Comptroller to collect penalties in certain circumstances.

239A. Notwithstanding section 239, the Comptroller is hereby authorised to collect the penalties set out in sections 34B, 79, 82, 86, 87 and 88 for breaches of the customs law, and in default of the amount imposed being paid, proceedings may be taken against the offender in a court of law for the offence committed."

17. The principal Act is amended by renumbering the First and Second Schedules as the Third and Fourth Schedules respectively and inserting the First and Second Schedules as set out in the *Schedule* to this Act.

Amendment of Cap. 66. Schedule.

SCHEDULE

"FIRST SCHEDULE

PART I

(Section 34(3)(a), 34A(1)(b), 78(3)(a), 78A(1)(b))

A. Data relating to the voyage or flight

1. **Flight Identification**
IATA airline code and flight number.
2. **Vessel Identification**
Ship's or aircraft's name and voyage number.
3. **Vessel Registration**
Ship's or aircraft's registration number.
4. **Country of Registration**
Country where ship or aircraft is registered.
5. **Agent or Owner**
Name of agent for the ship or aircraft or where no agent, name of owner.
6. **Scheduled Departure Date**
Date of scheduled departure of ship or aircraft (based on local time of departure from location).
7. **Scheduled Departure Time**
Time of scheduled departure of ship or aircraft (based on local time of departure from location).
8. **Scheduled Arrival Date**
Date of scheduled arrival of ship or aircraft (based on local time of arrival at location).
9. **Scheduled Arrival Time**
Time of scheduled arrival of ship or aircraft (based on local time of arrival at location).

10. **Last Place or Port of Call of Ship or Aircraft**
Ship or aircraft departed from this foreign place or port of call to go to a place or port of call.
11. **Place or Port of Initial Arrival of Ship or Aircraft**
Place or port of call in the country where the ship or aircraft arrives from the last place or port of call of the ship or aircraft.
12. **Subsequent Place or Port of Call Within the Country or Domestic Space**
13. **Number of passengers on board**
Total number of passengers and crew on board ship or aircraft.
14. **Place or Port of Onward Foreign Destination**
(For departure from Barbados)

*Data relating to each individual
on board a ship or aircraft*

B. Core Data Elements of the Official Travel Documents

1. **Official Travel Document Number**
Passport or other official travel document number.
2. **Issuing State or Organisation of the Official Travel Document**
Name of the state or organisation responsible for the issuance of the official travel document.
3. **Official Travel Document Type**
Indicator to identify type of official travel document.
4. **Expiration Date of Official Travel Document**
Expiration date of the official travel document.
5. **Surname and Given Name(s)**
Family name and given name(s) of the holder as they appears on the official travel document.
6. **Nationality**
Nationality of the holder.
7. **Date of Birth**
Date of birth of the holder.
8. **Gender**
Gender of the holder.

PART II

(Section 34(3)(b), 34A(1)(b), 78(3)(b), 78A(1)(b))

1. Cargo for Discharge within Barbados

A. Data relating to the Manifest

Voyage number

(A number assigned by local Shipping Agent for vessels or the scheduled flight number for aircrafts)

Date and Time of submission

Carrier

(Name of vessel)

Scheduled Departure Date

(Date of departure of vessel or aircraft)

Scheduled Arrival Date

(Date of arrival of vessel or aircraft)

Scheduled Arrival Time

(Time of arrival of vessel or aircraft)

Place of Departure

(The last foreign port or place of call for vessel or aircraft)

Destination

(Port or place in the country of destination where the vessel or aircraft first reports)

Subsequent Place or Port of call within the country (Optional)

Agent: Name

(Authorised representative of the vessel or aircraft, where available)

Owner

(Name of owner of vessel or aircraft)

Transport: Mode

(The manner in which the goods are imported or exported)

Transport: Name

(Name of the importing or exporting vessel or aircraft)

Transport: Nationality

(Nationality of vessel or aircraft as determined by its port of registry)

Transport: Place (Optional)

(Port of Registry)

Registration (Optional)

(International registration number including in respect of vessels, the International Maritime Organisation registration number or Lloyd's registration number, or in respect of aircraft the International Air Transport Authority registration number)

Master (Optional)

(Name of ship's captain)

Total: Bills

Total: Packages

Total: Containers

Total: Gross (Optional)

Tonnage: Net

(Ship's registered tonnage)

Date of last discharge (Optional)

(Date ship last discharged cargo at any port)

B. Data relating to Container Management

Container: Number

(The BIC identification number of containers)

Container: Type

(Type of containers, e.g. 20 feet, refrigerated)

Empty/Full Indicator

(Whether full container load or less than container load)

Seals

(The number of the security seal(s) affixed to the container door)

Marks

(Marks or numbers of the seal(s) affixed to the container door)

Sealing Party

(The authority that affixed the seal(s) to the containers)

Total Containers

Transport Document Reference Number

*C. Data relating to individual Bills of Lading
or Airway Bills*

Manifest Line Number

(Number indicating the order of bills of lading on a manifest)

Transport Document Type

(Type of document issued by vessel or aircraft including airway bills, bills of lading or waybills)

Transport Document Reference Number

Purpose of Shipment

(Whether for import, export, in-transit or transshipment)

Unique Cargo Reference (Optional)

Place of Loading

Place of Discharge

Exporter

Exporter Address

Consignee

Notify

(Either the consignee or the name and phone number of the representative)

Total Containers

Packages: Kind

Packages: Marks and Numbers

Quantity: Package

Quantity: Gross Mass

Volume: Cubic Measurement (cbm)

Description of Goods
(Pursuant to applicable law)

Freight Indicator
(Payment status, whether prepaid or payment on collection)

Amount and Currency

Values:

Customs (Optional)

Insurance (Optional)

Freight (Optional)

Additional Seals

Additional Information

2. Cargo not intended for discharge within Barbados

All dangerous or hazardous goods, explosives, firearms and ammunition, prohibited or restricted items not destined for Barbados must be listed separately in the following format:

Description	Quantity in Kilos	Country of Destination
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SECOND SCHEDULE

(Sections 2, 34(4)(c),(d))

Domestic Space

Antigua and Barbuda

Barbados

Dominica

Grenada

Guyana

Jamaica

St. Kitts and Nevis

St. Lucia

St. Vincent and the Grenadines

Trinidad and Tobago."